

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
MARCH 6, 2018**

CALL TO ORDER A meeting of the Flathead County Board of Adjustment was called to order at
6:00 pm approximately 6:00 p.m. at the South Campus Building, 40 11th
Street West, Suite 200, Kalispell, Montana. Board members present were Cal
Dyck, Ole Netteberg, Gina Klempel and Roger Noble. Mark Hash had an
excused absence. Erik Mack represented the Flathead County Planning &
Zoning Office.

There were 55 members of the public in attendance.

APPROVAL OF Klempel motioned and Netteberg seconded to approve the February 6, 2018
MINUTES minutes as written. The motion passed unanimously.
6:01 pm

PUBLIC None
COMMENT
*(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)
6:01 pm*

DONALD & LISA A request from Donald & Lisa Mischke for a conditional use permit for a
MISCHKE 'Home Occupation' for an auto repair shop on property located at 257 Aero
(FCU-17-17) Lane in Ferndale, MT. The subject property is located within the Bigfork
6:01pm Zoning District, zoned *SAG-5 (Suburban Agricultural)* and contains
approximately 3.13 acres.

STAFF REPORTS Mack reviewed the Staff Report FCU-17-17 for the board.
6:02 pm

BOARD None
QUESTIONS
6:06 pm

**APPLICANT
PRESENTATION**
6:06 pm

Don Mischke, 257 Aero Lane, had been doing business out of his shop for the last 10 years but wanted to make it legal. He had a grandfathered clause for the shop when he bought the house but when he moved it out of a sink-hole it had become non-compliant. He just wanted to make it compliant again.

**BOARD
QUESTIONS**
6:07

Klempel wondered if he always kept 9-5 working hours, 6 days a week. He said that he did for the most part but it fluctuated depending on the demand. Certain things happened (i.e. flat tires) that needed to be fixed right away. He tried to be helpful to his neighbors and said it had been nice to be able to work from home.

**PUBLIC
COMMENT**
6:08 pm

Dan Griffin, 315 Aero Ln, spoke in favor of the application. He said that he had known the applicant for 14 years. He has worked on their vehicles. He felt like they were an asset to the neighborhood and had never seen anything that he would object to. He felt like the complaint letter that initiated the violation was not truthful and malicious.

Chris Hall, 115 W. Evergreen Drive, spoke in favor of the applicant and felt like it was a good use of property as long as the work hours were not disruptive. He felt like it was something that would better the community.

**BOARD
DISCUSSION**
6:11 pm

Klempel stated that she felt like everything seemed to be in order. Netteberg was in agreement.

**MOTION TO
ADOPT F.O.F
(FCU-17-17)**
6:12 pm

Noble made a motion, seconded by Klempel, to accept Staff Report FCU-17-17 as Findings-of-Fact.

**ROLL CALL TO
ADOPT F.O.F**
6:12 pm

Motion passed unanimously on a roll call vote.

**MOTION TO
APPROVE
(FCU-17-17)**
6:13 pm

Noble made a motion seconded by Klempel to approve FCU-17-17.

**ROLL CALL TO
APPROVE
(FCU-17-17)
6:13 pm**

Motioned passed unanimously by a roll call vote.

**MICHAEL
SEAMAN AND
GARRY SEAMAN
(FCU-18-01)
6:20 pm**

A request from Michael V. Seaman and Garry D. Seaman for a conditional use permit for a manufactured home park that will include 122 spaces within the Evergreen Zoning District, zoned *R-4 (Two Family Residential)*. The property is located immediately west of West Evergreen School and contains approximately 33 acres. The applicants are requesting preliminary plat approval of 'West Evergreen Estates', a two phased manufactured home park reviewed under 'Subdivision for Lease or Rent' and will connect to Evergreen Water & Sewer.

**STAFF REPORTS
6:20 pm**

Mack reviewed the Staff Report FCU-18-01 for the board.

**BOARD
QUESTIONS
6:25 pm**

**APPLICANT
PRESENTATION
6:25**

Eric Mulcahy, with Sands Surveying, represented the applicant. He pointed out that Andy Hyde with Carver Engineering was also present for questioning. Mulcahy said they started working on the project a year ago. They went through a zone change to have more of an urban zoning designation for the property. This fall they started working on the design structure as well as the infrastructure of the development. He discussed the allotments for R-4 zoning being up to 12 units per acre and they were proposing 3.6 units per acre. He said that it was a standard single family residential type density on this property. There were smaller lots clustered internally and larger lots on the perimeter. There were 8.9 acres of open space within the 33 acre project. He discussed in great length their design and how they are planning to make it more like a subdivision development. He said that the development will connect to Evergreen Sewer and Water and they worked with the school to get an easement for sewer. In exchange for the easement, they were going to construct a path between their development and the school buildings for pedestrians. They would develop some pedestrian paths through the subdivision. He said the school district and the fire department were ok with the subdivision according to county standards. He discussed the traffic impact study. He pointed out that there was congestion at W. Evergreen and Whitefish Stage Rd around the time when school lets out. They recommended having the county put a stop sign or a right hand turn lane. The Road Department did not object to that but that particular point of Whitefish

**BOARD
QUESTIONS
6:34 pm**

Stage was actually within city limits.

He said that they were in agreement with the conditions in the staff report. He believed that they were up to code in the CUP conditions.

Noble wondered where the pedestrian paths were going to be. Mulcahy showed the proposed trails and access points as well as the school property on the map.

Dyck wanted clarification on if there was going to be a fence. Mulcahy pointed out that there would be a 5' chain linked fence on the school property. He stated that the school did not want additional trails cutting across their football field and property.

Klempel wondered if they were looking at the original plan that was submitted to the County Commissioners. Mulcahy said that they had submitted a conceptual plan at the request of the Commissioners and that conceptually it was pretty close. He pointed out some of the differences on the overhead.

Dyck asked Hyde, with Carver Engineering, if he saw anything that would stress the infrastructure. Hyde said the water supply was adequate and the water distribution center was strengthened by the River Place Subdivision. He pointed out other strong distribution centers and how it connected. He discussed the details of Evergreen not wanting septic systems. Seaman had worked with the school to get an easement to connect to the sewer from the highway. He said that it would not stress the system. He said that the storm water would be held onsite and would not discharge to the surrounding area.

Noble wondered if the units were to be leased, rented, or owned. Mulcahy said that the individual lots would not be for sale. Noble wondered if there was an age limit to the manufactured homes being placed on the property. Mulcahy said that there were a set of park rules with architectural regulations but no age limit. Mulcahy also pointed out that there would be a manager on site.

**PUBLIC
COMMENT
6:49 pm**

Melissa Treat, 89 West Evergreen Dr., said the openness of the area is why she bought the home last year. She was in opposition of the application and voiced her concern about safety; including traffic, density, and crime rate. She felt like a mobile home was not going to be visually appealing and would decrease the value of her home. She was also concerned about the school

being overcrowded.

Glen Peterson, 71 W. Evergreen Dr., spoke in opposition of the application. His main concerns were trash removal and snow removal. He has had problems with people throwing trash in to his yard. He voiced concern over traffic safety, especially with the roads being slick.

Duane Goulet, 41 W Evergreen Dr., spoke in opposition of the application and said he felt they were getting inundated with apartments and trailer courts in the neighborhood. He was concerned about safety and kids being on the road due to there being little to no shoulder. He said the apartment buildings had created even more traffic and there was no traffic control in the area. He questioned where the tax dollars were going to come from to support the increase.

Ron Krohn, 28 River Road, spoke in opposition of the application. His biggest concern was traffic and snow removal. He was also concerned about what types of homes were going to be put in since there was no age limit. He was concerned about taxes.

Lance Vitt, 180 River Road, spoke in opposition of the application. He was concerned about how dangerous the roads were. He was also concerned about the school already being overcrowded. He voiced that they would like to see people own their homes as the current neighbors do.

Sherry Sheme, 3238 Sweet Grass Lane, was concerned about the proposed density. She compared the lots to that of the City of Kalispell and said if the lots were back to back then there should be an alley and she did not see one on the proposal. She was also concerned about them renting and not owning the homes. Those were her main concerns in addition to everything else that had been mentioned. She was in opposition of the application.

Sierra Hubble, 3239 Sweet Grass Lane, spoke in opposition of the application and felt like the type of structure being proposed would not fit in to the surrounding development. She also echoed traffic, safety, taxes, wildlife, school (student/teacher ratio), and crime being areas of concern.

Ken Duran, 146 Westwood Lane, spoke in opposition of the application and expressed concern about traffic and the school bus stops. He was also concerned about it being rental properties and their property values. He said that his biggest concern though was the school being overly congested and did not believe that the school would be able to accommodate the need.

Steven Drent, 49 River Rd, spoke in opposition and said he was in agreement with what had been said before him. He was concerned on how it would impact current home owner's property taxes. He was also concerned about

traffic, the homes being rentals, and no age limits on the manufactured homes being enforced.

Dorothy Huff, 29 Meadowlark Dr., spoke in opposition of the application. She was concerned about renters not taking care of the property or respecting their neighbors. She was also concerned that the property taxes would go up for property owners and not the renters.

Rhonda McDowell-Rowen, 95 W. Evergreen Dr., spoke in opposition of the application and was in agreement with the concerns that had previously been said. She said the road was already dangerous as it was. She brought up the railroad crossing, the backup that it causes, and adding more congestion to the traffic. She said the roads were like a racetrack.

Rob Treat, 89 W Evergreen Dr., was in opposition of the application. He said home owners valued their homes and was concerned about renters coming in. His biggest issue was looking at the big picture of it all; that it might be easier for the middle schoolers to get to school but he was concerned about the elementary students. He works at the school and said that the school was already understaffed for the current demand.

Robert Koehler, 122 Westwood Ln., spoke in opposition of the application. He was concerned about people throwing trash on his property and that the added density would only encourage more trash.

Paul Heath, 87 E. Nicklaus Ave., spoke in opposition and agreed with the things that had been brought up previously. He goes to church at the parish nearby and said that it is often hard to turn left because there is so much traffic.

Sergey Shirshov, 47 West Evergreen Dr., was in opposition of the permit being granted and he was in agreement that the traffic was a big concern. He was also concerned about his property value going down because it was already a well-developed area. He was concerned about the increase of density, distress on the community, and crime rates possibly increasing. He asked the board to look at what it will bring to the community and not just the technical aspect of the proposal.

Nacoda Gladeau, 3000 Sweet Grass Lane, was concerned about the safety of the school with a trail that would go right from the properties to the school. She felt like there needed to be extra security at the school. She was also in agreement with everything that had been brought up previously and was in opposition of the application.

Chris Hall, 115 W Evergreen Dr., spoke in opposition of the proposal. He was in agreement with what people had shared previously but his main

concerns were traffic and the school. He felt like the information the board had was flawed. He was a realtor and said he understood why there needed to be affordable housing. He wanted people to be able to own their property instead of renting it. He felt like the board should look at what would add to the community “not hinder it”.

Jelene Thomas, 101 W. Evergreen Dr., spoke in opposition and expressed frustration that during the zone change proposal the properties were going to be sold and now they were going to be rented. She was also concerned about safety, traffic, and was in agreement with everything that had been mentioned earlier.

Jim Trepina, 946 Trumble Creek Rd., spoke in opposition and was in agreement with what others had said. He was concerned about his property value going down and taxes being raised.

Bill Kuchera, 109 Ritzman Ln., spoke in opposition and was concerned about his property value going down. He was also concerned about where phase two was going to be built and the amount of traffic.

Richard Winters, 524 Scenic River Way, wondered how the storm water was going to be retained on each property and where it was going to go. He said it was all run off. He was also in agreement with the concerns brought up and stated it was time for the Commissioners, the County, and the Planning Board to start working for the tax payers. He opposed the application.

Ian Wargo, 3095 Sweet Grass Ln., wondered if he could have clarification on the process of the subdivision process and Mack clarified the process. He felt like things were now being presented differently than they were during the zone change process. He said that he had a conversation with Mulcahy that there might be lots buffered with owned lots between the rental lots. He also voiced concern about needing monitored access in to the schools, school density, and taxes. He was in opposition of the application.

James Mower, 146 E Evergreen Dr., shared that the area was called “Evergreen Estates” and read the definition of the word “estates”, implying that mobile homes would not fit in to the community. He said that he was in agreement with the concerns that were brought up early and spoke in opposition of the mobile home park. He felt like the school and fire department were in need of more funding therefore it would fall on home owners.

Brenda Krohn, 28 River Rd., spoke in opposition and was concerned about the density of the area and the traffic.

Elizabeth Vandeberg, 3083 Sweetgrass Lane, questioned the traffic study and when it was done. She said [manufactured homes] were not permanent structures that people would take pride in. She was opposed to the application and said that the applicant was the only one in favor. She wished the board would listen to the people.

Derek Vandeberg, 3083 Sweetgrass Lane, spoke in opposition of the application. He was concerned about the tax base of rental properties vs. owned properties. He voiced that the only winner of this proposal was the applicant. He also questioned who would enforce the architectural standards and the management of the development.

Cheryl Lee, 138 Westwood Lane, spoke in opposition of the application. Her main concern was traffic.

Bill Beck, 3239 Sweet Grass Ln, spoke in opposition and felt the development did not fit the spirit of the community.

Dan Shreeve, 109 W Evergreen Dr., spoke in opposition and said that his biggest concern was the industrial rail park that they were building down the road from this proposal. He was concerned that the traffic was going to get even worse. He also said he has seen Seaman's "bone yard" and was concerned that was what was going to go in to his trailer park. He also wondered if adding the mobile home park would add to the number of sex offenders that were already in the neighborhood.

Brian Farrell, 3077 Sweetgrass Ln., said he was in agreement with everything that had been said and opposed the application. He felt it seemed that Mr. Seaman was making all the rules and that things had changed since the first meeting. There was originally going to be a larger buffer and he felt that still needed to be in place. He opposed the density. He felt like there hadn't been enough consideration for the homeowner's in the area and wondered if it was truly the best use of the space.

Arthur Howell, 150 Westwood Ln., was opposed to the proposal and was concerned what the crime rate might be with an added trailer park. He wondered why Evergreen kept getting worse.

**APPLICANT
REBUTTAL
7:44 pm**

Mulcahy addressed some of the questions that were brought up by the public. The traffic study was completed in October 2017. He said that the park rules were going to be enforced by the owner and the park manager. He understood the concern of the neighbor's wanting owner occupied over renter occupied but pointed out that every county had a variety of both. There was no rule that said, if you were R-3 or R-4, it had to be owner occupied. He said that the growth policy encouraged a variety of housing. He also pointed out that they did not maximize the allowable density. He said they did try to explore

owner occupied and renter occupied on the southern boundary but it was problematic with maintenance of roads and open space.

**BOARD
DISCUSSION**
7:47 pm

Dyck asked Mulcahy for clarification on garbage removal. Mulcahy said that it wasn't written in to the park rules but it could be added as a condition.

Dyck wondered if the roads were going to be privately maintained, including snow removal, so it could not get pushed across the highway onto someone else's property. Mulcahy answered that was correct and they had lots of open space for snow storage. He said that regulations for DEQ were that they manage the storm water on their site and do not burden their neighbors.

Dyck addressed the public and said the applicant had to meet criteria. He said he understood their concerns but they could only mitigate to a certain point. They also had to respect the applicant. He said the development had to go through a subdivision review and that most of the time there were covenants. The Board of Adjustment was the first step in the process. He asked Mulcahy if the applicant was willing to create a set of design criteria and stipulations because the neighbors did not want to have a "used car lot" stacked in there. He asked the public if that was their number one concern and they replied yes. Dyck addressed the public again to inform them that they do not get to see all the paperwork in front of them but on a 6,000 sq. ft. there was only a certain amount allowed to have a trailer and everything had to go through a certain agreement and requirement [i.e. what a deck could look like]. Mulcahy discussed the process that it would go through under subdivision review and said, that in lieu of covenants, they had park rules that they put in place to address siding, roofing, decks, maintenance, garbage, and etc.

Noble asked about a buffer that was originally presented to the County Commissioners that was reduced from 50' to 30'. Mulcahy said that there was a required 20' setback which they had included in the southern lots. The reason why they had planned that was so lot owners would maintain the lots. Noble said he had driven through the subdivision and the nearby neighborhoods and felt they were well kept and a buffer would be needed. Mulcahy said that they could add it in to the conditions. Mulcahy discussed barrier options. Dyck wondered about a hedge that would create a privacy buffer and mentioned they were trying to find a balance for everyone.

[Inaudible board discussion]

Dyck wondered if another traffic study had been done prior to 2017. Mulcahy said not for this property.

Netteberg said that it fell under affordable housing.

[Inaudible board discussion]

Dyck asked Seaman what age of manufactured home he recommended to not exceed. He said that by County standards for R-4, it would be no different than anywhere else in the valley. He said he recommended house type siding and roofing. He said there were a lot of misconceptions out there [about mobile homes] and addressed that. He clarified that the spaces were for rent but the houses would be purchased. Dyck clarified that Seaman was planning on leasing or renting the lot and then people would put their own home on it. He said that was correct. He felt like people were going to buy brand new manufactured homes. Dyck asked if he was planning on owning the homes on the property. Seaman answered that right now there was no regulation that the homes needed to be owner occupied. He spoke in great length about the supply and demand of manufactured homes in the valley and why he felt like people were going to be buying brand new homes.

Dyck asked for clarification on the regulations Seaman planned to put on the siding and roofing. Seaman said it would be house type siding. Dyck brought up the fact that it would set the criteria so that they could not have older aluminum side homes on the lots.

**Public Questions
8:10 pm**

A gentleman, who did not identify his name or address, wondered if each lot was for rent or if a home would be placed on it first and then rented out and the home would stay on that lot. Dyck did not completely understand his question but he pointed out the difference between phase 1 and phase 2 and what that process would look like with people choosing which lot they would like to place a home on.

A gentleman, who did not identify his name or address, asked about the fact that Mulcahy had mentioned, with this type of subdivision, there were no covenants and wondered if the rules and regulations were going to be monitored by the people who owned the park. He wondered if there was going to be one manager or more and what authority he might have to enforce the regulations (i.e. how much junk vehicles you can have or how many animals are allowed). Dyck replied that when it came to junk vehicles and community decay, the county would enforce that. He said that the county had

a leash law and needed to deal with an animal that was out of control. Dyck said that they would add regulations as a part of the conditions which they would have to follow. Mack spoke up and said that when things in a condition the county could enforce it. If a complaint was issued for a violation, the violation officer would come out and inspect it and would work to get it resolved. If it doesn't get resolved then it goes to court.

Chris Hall felt like he didn't get his full minutes to speak and had a few things to add. He asked the board look at Meadow Manor and felt like that was tastefully done. He asked that if it was allowed, that it be tastefully done. He brought up that the application had no regulation on landscaping, lighting, fencing and that it was a blank slate.

**BOARD
DISCUSSION
8:16 pm**

Netteberg said that he had a friend who lived in Meadow Manor. It was affordable living and he was on a fixed income. He said we needed affordable housing in the valley. Since visiting his friend frequently, he had really come to respect people living in manufactured homes and felt like they needed to respect it too. He said neighborhood plans have become a stronger and stronger voice in what happens but the board was bound by regulations. He said neighborhood plans were ran by emotion. He understood the emotion but reminded the public that they had to abide by the regulations. He said affordable housing is a huge issue.

[Inaudible board discussion]

**MOTION TO
ADOPT F.O.F
(FCU-18-01)
8:25 pm**

Netteberg made a motion, seconded by Klempel, to accept Staff Report FCU-18-01 as Findings-of-Fact.

**ROLL CALL TO
ADOPT F.O.F
8:26 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
APPROVE
(FCU-18-01)
8:29 pm**

Netteberg made a motion, seconded by Noble, to approve the FCU-18-01 with changes to the conditions as followed:

Strike "oil" and "or" from condition 15 to read as follows:

15. Where oil or propane gas heating of a manufactured home is necessary, a fuel storage facility shall be provided on the manufactured home site not to exceed a three hundred (300) gallon capacity. The storage facility shall extend no higher than six feet

above ground level and shall be located and screened to blend with its surroundings.

Adding conditions

19. In order to assure the provisions for collection and disposal of solid waste, the developer shall use a solid waste contract hauler for the manufactured home park.

20. Appendix H of the application (park rules) shall be a condition of the permit to ensure compliance of the manufactured home standards.

21. A thirty-foot 'living buffer' shall be provided on the southern property line with a four-foot chain link fence to the north of the buffer.

**ROLL CALL TO
APPROVE
(FCU-18-01)
8:29 pm**

On a roll call vote the motion passed unanimously.

**ROSE
STAHLBERG
(FCU-18-02)
8:36 pm**

A request from George J. Joseph, on behalf of Rose Stahlberg, for a conditional use permit to build two (2) 10-unit apartment buildings on property located at 214 Spruce Drive within the Evergreen Zoning District. The property contains approximately 0.90 acres and is zoned *RA-1 (Residential Apartment)*.

**STAFF REPORTS
8:36 pm**

Mack reviewed the Staff Report FCU-18-02 for the board.

**BOARD
QUESTIONS
8:38pm**

Dyck wondered if the water and sewer issues had been resolved. Mack said that they could condition it but it would need to get resolved before the applicant could build anything there.

**APPLICANT
PRESENTATION
8:39 pm**

George Joseph, 18 Mountainside Dr., said he has a great deal of pride and felt it was reflected in what he had already built there. He said he had met all the conditions in the past and were kept up very well. He said the COS language used does not apply because there was no sewer and water available at that time. He showed a letter that said water and sewer was now available in that area. He said that if DEQ required a rewrite it would cost him \$8k to \$16k to receive approval on something that he felt was already ok and that Evergreen Sewer and Water already permitted. He asked if that was clear.

**BOARD
QUESTIONS**
8:43 pm

Noble said it was not clear and that he was flat out wrong and that it had a restriction on it. Joseph asked what the bottom of the restriction said. Noble read the restriction and said that it required a rewrite in order to lift the restriction and that was why it was in there. They discussed in length what it would take to get the restriction lifted.

Joseph said that they had addressed all conditions in the staff report.

**PUBLIC
COMMENT**
8:47 pm

Duane Goulet, 41 W. Evergreen Dr., stated his property had been zoned for apartments without his knowledge. He spoke in opposition of the apartment building because he had already lost some of his view with the ones that had already been built. He was also concerned about traffic.

Barb Goulet, 41 W. Evergreen Dr., was in opposition and agreed with what had been shared previously. She was concerned about traffic safety and overall safety as the police have been called out to the existing apartments numerous times.

Sergey Shirshov, 47 W. Evergreen Dr., asked the board to consider the safety issues for the kids. He felt like there needed to be walk ways and a place for kids to play. He was against the application.

**APPLICANT
REBUTTAL**
8:53 pm

Joseph addressed the public concerns and said that he fully respected their stance. He said that he took a great deal of pride in to keeping the properties clean. He wanted to work with the neighbors. He said that there was a need for affordable housing and he felt like it would help their property value.

**BOARD
DISCUSSION**
8:57 pm

Netteberg wondered if there was a designated park area for kids. Joseph said that the property adjacent to the school was public space with a public basketball court and a field. He said that people who lived in the current buildings play in the field. Dyck asked how far away that property was. Joseph estimated it was about 60' away. He agreed that West Evergreen needed to be addressed.

There was discussion amongst the public, the applicant, and the staff about when the zone change may have occurred because the applicant was never notified. Mack said that the zoning district was created in 1990.

[Inaudible board discussion]

Dyck wondered if there was a requirement for open space. Mack said there was not. Dyck asked Goulet to point out where his property was in

comparison. Goulet said that the height of the buildings blocked his view. Dyck wondered if the buildings were within code and Joseph said they were.

[Inaudible board discussion]

Klempel asked the staff if the house was going to go away and Mack said he believed so.

Dyck wondered if there was a requirement for fencing and Mack said not for residential zones. He said that the 5' buffer came from parking.

[Inaudible board discussion]

Dyck wondered what the parking requirement was. They answered that it was 45 and they had 46 stalls. Joseph encouraged the board to drive by one of the units because he said there was never a full parking lot.

Dyck discussed with staff screening and barrier options. Joseph asked what borders he was referring to and Dyck answered all borders except the one on Spruce Dr. because he was up to residential lots.

[Inaudible board discussion]

**MOTION TO
ADOPT F.O.F
(FCU-18-02)
9:19 pm**

Klempel made a motion, seconded by Netteberg, to accept Staff Report FCU-18-02 as Findings-of-Fact.

**BOARD
DISCUSSION
9:19 pm**

None

**ROLL CALL TO
ADOPT F.O.F
9:19 pm**

A motion was made by Klempel to adopt the Staff Report FCU-18-02 as Findings of Fact. The motion was seconded by Netteberg.

**MOTION TO
APPROVE
(FCU-18-02)
9:20 pm**

A motion was made and seconded to approve the conditional use permit FCU-18-02 with amendments to conditions as read.

6. The proposed use shall maintain a 5 foot landscape buffer, and solid screening and four foot chain link fence on the north boundary, western boundary, and southern boundary around the perimeter of the property, in accordance with Section 6.11.040 FCZR.

13. The plan for the water and sewer facility shall be submitted for re-review and approval by the Flathead City-County Environmental Health Department and the subdivision section of the Department of Environmental Quality as applicable.

**BOARD
DISCUSSION
9:21 pm**

Joseph asked the board to clarify if the language used by the DEQ was standard language and Noble said it was and they further discussed it.

**ROLL CALL TO
APPROVE
(FCU-18-02)
9:23 pm**

On roll call vote the motion was approved as read on a vote of 3-1 with Noble dissenting.

**BRUCE
TUTVEDT
(FZV-18-01)
9:25 pm**

A request from Bruce Tutvedt for a variance to Section 3.34.050(4)(E) of the Flathead County Zoning Regulations (FCZR) which states, in order to meet the 5 acre density allowance, "*A portion of each lot must be within 300 feet of a road maintained by the County and have access to and use of said road.*" The applicant is requesting the variance because the standard prohibits developing reasonable lot lines within the Lost Hills subdivision which otherwise meets the density requirements. The property is located along Farm to Market Road north of Clark Drive, within the West Valley Zoning District and contains approximately 38 acres.

**STAFF REPORTS
9:26 pm**

Mack reviewed the Staff Report FZV-18-01 for the board.

**BOARD
QUESTIONS**
9:34 pm

Netteberg wondered what the distance from Farm to Market Rd to the point on Lot 5 originally was on the proposal. Erik said it was within 300' which was what met the zoning requirements.

Klempel wondered if the gully was natural or due to the gravel pit. The applicant answered that it was natural.

**APPLICANT
PRESENTATION**
9:36 pm

Kevin Nelson, with Marquardt Surveying, explained the history of the file, the original design of the lot, and the reasoning for the extension. He discussed the negative Findings of Fact that were not positive. He explained that he did not agree that a 10 acre density was appropriate and noted that even the staff report explained how the topography, access, and lot size were unique to the situation.

Bruce Tutvedt, 1333 Church Dr, explained that the property was not prime soil and that Farm to Market Road was not a county maintained road because it was MDT maintained. He noted that if the variance was not granted, the lots would be harder to sell, build, maintain, and could cause boundary line disputes. He explained that there were utilities and public infrastructure available to support the residential use. He provided examples of 3 other subdivisions within the vicinity with lots farther than 300 feet from a county maintained road.

**PUBLIC
COMMENT**
9:49 pm

None

**BOARD
DISCUSSION**
9:49 pm

Noble asked if the purpose of the variance was just because of the 300 foot distance requirement and if Farm to Market was a state maintained road, if this provision even applied. Staff explained that if the road was not considered to be equivalent to a "county-maintained" then the lot could not qualify for anything other than a 20 acre density.

The Board discussed soil classification. Noble wondered if it was proved to be unproductive ground, would it be considered exclusion. Mack explained the process to prove it was not productive. Klempel said she didn't know anybody who could farm on 5 or 10 acres and also noted that weed management was an important factor that should be taken into consideration.

[Inaudible board discussion]

The Board discussed with the applicant details regarding the West Valley

Neighborhood Plan. Tutvedt expressed that he wished he could have changed to a SAG-5 but was not made aware that was an option. The Board also discussed the West Valley Neighborhood Plan and said it appeared to contradict itself and could be out of compliance with state statute.

Dyck said that the purpose of a variance was to allow a piece of property, due to a blanket statement, that did not fit. He felt like the current plan did not make sense and felt that the 300 foot distance requirement for a 5 acre density was an undue hardship and that topography is a huge issue particular to this property.

[Partially Inaudible board discussion] They discussed among themselves what changes they wanted to make to the conditions.

**MOTION TO
ADOPT F.O.F
(FZV-18-01)
10:08 pm**

Netteberg made a motion, seconded by Klempel, to accept Staff Report FZV-18-01 as Findings-of-Fact.

**MOTION TO
AMMEND
FINDING #1
10:08 pm**

Klempel made a motion, seconded by Netteberg, to amend Staff Report FZV-18-01 Finding #1 to state the following:

Finding #1 - Strict compliance with the regulations ~~does not appear to limits~~ reasonable use of the property because while the lot is most appropriately used for residential development, the difference between a 5- and 10-acre density do not seem to differ enough to prohibit reasonable use of the property, especially since the preliminary plat appears to meet the 5-acre density criteria.

**ROLL CALL TO
AMMEND
FINDING #1
10:09 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMMEND
FINDING #2
10:09 pm**

Netteberg made a motion, seconded by Klempel, to amend Staff Report FZV-18-01 Finding #2 to state the following:

Finding #2 - Strict compliance with the regulations would ~~not~~ deprive the applicant of rights enjoyed by other properties similarly situated in the same district because all properties within the West Valley zoning are subject to the density based criteria and the hardship of an odd-shaped lot ~~could be overcome by developing to a 10-acre density.~~

**ROLL CALL TO
AMMEND
FINDING #2
10:10 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMMEND
FINDING #4
10:10 pm**

Netteberg made a motion, seconded by Klempel, to amend Staff Report FZV-18-01 Finding #4 to state the following:

Finding #4 – While the lot does have characteristics which hinder reasonable lot line development of a traditional 5-acre residential subdivision *due to topography*, the applicants have the option to develop using clustering or to meet the less stringent criteria of the 10-acre density, thereby overcoming the site specific challenges.

**ROLL CALL TO
AMMEND
FINDING #4
10:10 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMMEND
FINDING #5
10:12 pm**

Noble made a motion, seconded by Klempel, to amend Staff Report FZV-18-01 Finding #5 to state the following:

Finding #5 – The alleged hardship *has not appears to have* been created by the applicant because the site specific limitations that created the odd shaped lot could *not* have been overcome with alternative subdivision designs as allowed by the West Valley zoning.

**ROLL CALL TO
AMMEND
FINDING #5
10:12 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMMEND
FINDING #8
10:13 pm**

Netteberg made a motion, seconded by Klempel, to amend Staff Report FZV-18-01 Finding #8 to state the following:

Finding #8 – The alleged hardship *has not appears to have* been created by the applicant because the site specific limitations that created the odd shaped lot could *not* have been overcome with alternative subdivision designs as allowed by the West Valley zoning.

**ROLL CALL TO
AMMEND
FINDING #8
10:13 pm**

Motion passed unanimously on a roll call vote.

**MOTION TO
AMMEND
FINDING #9**
10:14 pm

Noble made a motion, seconded by Netteberg, to amend Staff Report FZV-18-01 Finding #9 to state the following:

Finding #9 – Granting of the variance *does not* ~~would~~ appear confer a special privilege that is denied to other properties in the district ~~because the applicants currently meet all of the criteria required for the 5-acre density standard and there are other options for developing the subject property without the alleged hardship.~~

**ROLL CALL TO
AMMEND
FINDING #9**
10:14 pm

Motion passed unanimously on a roll call vote.

**ROLL CALL TO
ADOPT F.O.F**
10:15 pm

Motion passed to accept Staff Report FVZ-18-01 as Finding of Facts.

**MOTION TO
APPROVE
(FZV-18-01)**
10:15 pm

Noble made a motion, seconded by Netteberg, to approve the application.

**ROLL CALL TO
APPROVE
(FZV-18-01)**
10:15 pm

On a roll call vote the motion passed unanimously.

**VINCENT
GRILLO
(FCU-18-03)**
10:17 pm

A request from Vincent Grillo, on behalf of Dancing Fox, LLC and Clyde & Barbara Potts, for a conditional use permit to build two (2) four-plex apartment buildings on each of the subject properties. The two lots are located at 209 and 138 Jewel Basin Court within the Bigfork Zoning District, zoned *B-3 (Community Business)* and contain approximately 0.90 acres.

STAFF REPORTS
10:17 pm

Mack reviewed the Staff Report FCU-18-03 for the board.

**BOARD
QUESTIONS**
10:19 pm

None

**APPLICANT
PRESENTATION**
10:19 pm

Vincent Grillo, 150 Marken Loop, explained that he agreed with the staff report and the positive Findings of Facts.

**BOARD
QUESTIONS**
10:20 pm

Klempel questioned what plans the applicant had for landscaping. Grillo said he hadn't finalized a plan but he planned on doing some.

**PUBLIC
COMMENT**
10:21 pm

Tara Harbin, 13088 Kelley Dr., was in support of the application. She said there was a need for housing and gave examples of how she had seen this as a property manager and a realtor.

**BOARD
DISCUSSION**
10:22 pm

Klempel said that she was glad to see Bigfork step up to the plate and address the need for housing in that area.

Grillo wanted to add that he had changed the plans to address the overwhelming need for people needing a smaller apartment (i.e. elderly). Klempel wanted to make sure that information had been recorded.

Noble asked why there was only one ingress/egress for the subdivision. The cul-de-sac and ability to accommodate the additional traffic was discussed.

**MOTION TO
ADOPT F.O.F
(FCU-18-03)**
10:27 pm

Netteberg made a motion, seconded by Klempel, to accept Staff Report FCU-18-03 as Findings-of-Fact.

**ROLL CALL TO
ADOPT F.O.F**
10:27 pm

On a roll call vote, motion was passed unanimously to accept Staff Report FCU-18-03 as Findings of Fact.

**BOARD
DISCUSSION**
10:27 pm

None

**MOTION TO
APPROVE/DENY
(FCU-18-03)**
10:27 pm

Netteberg made a motion, seconded by Klempel, to approve the application.

**ROLL CALL TO
APPROVE/DENY
(FCU-18-03)**
10:27 pm

On a roll call vote the motion passed unanimously.

OLD BUSINESS
10:28 pm

None

NEW BUSINESS
10:28 pm

None

**MEETING
ADJOURNED**
10:28 pm

Dyck motioned, seconded by Klempel, to adjourn meeting. Meeting was adjourned.



Cal Dyck, Vice- Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED *5/6/2018*